

Blake L. Harrop (*pro hac vice* application pending)
 Senior Assistant Attorney General
 Antitrust Bureau
 Office of the Illinois Attorney General
 100 W. Randolph Street
 Chicago, Illinois 60601
 (312) 814-1004 (phone)
 (312) 814-4209 (fax)
bharrop@atg.state.il.us

Counsel for Intervener, the State of Illinois

**IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA**

)	No.: M-07-1827 SI
In Re TFT-LCD (FLAT PANEL))	MDL No. 1827
ANTITRUST LITIGATION)	
)	State of Illinois'
)	Motion to Intervene
)	
This document relates to:)	Date: February 5, 2010
)	Time: 9 a.m.
ALL ACTIONS.)	Dept.: Courtroom 10, 19 th Floor
)	Judge: Honorable Susan Illston

Notice of Motion and Motion

PLEASE TAKE NOTICE that on Friday, February 5, 2010, at 9 a.m., or soon thereafter as the matter may be heard, the People of the State of Illinois, by its Attorney General, Lisa Madigan, will present this Motion in Courtroom 10, 19th Floor, 450 Golden Gate Ave., San Francisco, California, before the Honorable Susan Illston.

In this Motion, the Attorney General asks the Court, pursuant to Federal Rule of Civil Procedure 24(b), for an order granting the State of Illinois permission to

1 intervene in this action for the limited purpose of seeking clarification or
2 modification of this Court's Stipulated Protective Order.

3 **Memorandum of Points and Authorities**

4 5 **I. Issue Statement**

6 FRCP 24(b) allows a person to intervene in an action to challenge a protective
7 order. The Illinois Attorney General seeks to intervene to ask this Court to clarify or
8 modify the protective order issued in this case. May the Attorney General
9 intervene?
10

11 12 **II. Facts**

13 The Attorney General is investigating whether the Defendants in this case
14 violated the Illinois Antitrust Act by engaging in the same conduct alleged in this
15 case. Under the act, the Attorney General issued a subpoena to Defendant AU
16 Optronics Corp. America ("AUA") seeking documents, including those AUA received
17 during discovery in this case.
18

19 Several other Defendants, however, asked an Illinois court to quash the
20 subpoena as to the documents they produced to AUA. The Illinois court quashed the
21 subpoena on December 18, 2009, based on those Defendants' interpretation of this
22 Court's Stipulated Protective Order. The Illinois court held that the Stipulated
23 Protective Order prohibits AUA from producing those Defendants' documents in
24 response to the Attorney General's subpoena and prevents AUA from having those
25 documents in its possession, custody, or control.
26
27
28

1 The Attorney General intends to move for reconsideration. To support that
 2 motion, the Attorney General would like to request this Court to clarify or modify
 3 the Stipulated Protective Order. For the limited purpose of making that request, the
 4 Attorney General seeks permission to intervene.

6 **III. Argument**

7 Federal Rule of Civil Procedure 24(b) permits a person to intervene in an action
 8 who "has a claim or defense that shares with the main action a common question of
 9 law or fact."¹ Generally, permissive intervention requires (1) an independent ground
 10 for jurisdiction, (2) a timely motion, and (3) a common question of law or fact
 11 between the person's claim or defense and the main action.²

12 Courts, including the Ninth Circuit Court of Appeals, widely approve using Rule
 13 24(b) as a method of seeking modification of a protective order.³ A court has
 14 jurisdiction to modify its own protective orders,⁴ and access to documents prepared
 15 for similar litigation involving the same parties satisfies the commonality
 16 requirement.⁵

17 Here, this Court has jurisdiction to clarify or modify its Stipulated Protective
 18 Order. The meaning of that protective order is a common issue of law. Further, the
 19

20 ¹ FRCP 24(b)(1)(B).

21 ² *Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 473 (9th Cir. 1992).

22 ³ *Id.*

23 ⁴ *Id.*

24 ⁵ *Id.* at 474.

1 Attorney General seeks access to documents produced in this case in preparation for
2 similar litigation involving the same Defendants and the same issues.

3
4 **IV. Conclusion**

5 The Illinois Attorney General asks this Court to grant her permission to
6 intervene in this action for the limited purpose of seeking clarification or
7 modification of the Stipulated Protective Order.
8

9
10 Dated: January 11, 2010

Respectfully submitted,

11 The State of Illinois,
12 by Lisa Madigan,
13 Attorney General of Illinois

14 By: Blake L. Harrop

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16 Blake L. Harrop
17 Senior Assistant Attorney General
18 Antitrust Bureau
19 Office of the Illinois Attorney General
20 100 W. Randolph Street
21 Chicago, Illinois 60601
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23
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26
27
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In Re TFT-LCD (FLAT PANEL)
ANTITRUST LITIGATION

No.: M-07-1827 SI
MDL No. 1827

[Proposed] Order Granting
Illinois' Motion to Intervene

This document relates to:

ALL ACTIONS.

Having considered the State of Illinois' Motion to Intervene, as well as all papers filed in support thereof or in opposition thereto, and having entertained any argument of counsel,

IT IS HEREBY ORDERED that the Motion is **GRANTED** so that the State of Illinois may intervene in this action for the limited purpose of seeking clarification or modification of the Stipulated Protective Order.

IT IS SO ORDRED.

Dated: _____, 2010

Hon. Susan Illston
United States District Judge